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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/534,560
Filing Date	May 11, 2005
First Named Inventor	Andreas FATH
Art Unit	
Examiner Name	
Attorney Docket Number	D4700-00394

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OCT 24 2006

**OFFICE OF PETITIONS**

Total Number of Pages in This Submission

**ENCLOSURES (Check all that apply)**

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form                     | <input type="checkbox"/> Drawing(s)  | <input type="checkbox"/> After Allowance Communication to a Technology Center (TC)      |
| <input type="checkbox"/> Fee Attached  | <input type="checkbox"/> Licensing-related Papers  | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences     |
| <input type="checkbox"/> Amendment/Reply                                     | <input checked="" type="checkbox"/> Petition (37 CFR 1.137(b))   | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final   | <input type="checkbox"/> Petition to Convert to a Provisional Application  | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declaration(s)                           | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  | <input type="checkbox"/> Status Letter  |
| <input type="checkbox"/> Extension of Time Request                           | <input type="checkbox"/> Terminal Disclaimer   | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):         |
| <input type="checkbox"/> Express Abandonment Request                         | <input type="checkbox"/> Request for Refund  |   |
| <input type="checkbox"/> Information Disclosure Statement                    | <input type="checkbox"/> CD, Number of CD(s) _____   |   |
| <input type="checkbox"/> Certified Copy of Priority Document(s)              | <b>Remarks</b>   |   |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application    | Also submitted are a copy of the Decision on a previous Petition under 37 CFR 1.137(a); and a Statement in Support of Petition to Revive under 37 CFR 1.137(b) |   |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 |  |   |

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual	Stephan P. Gribok
Signature	
Date	October 18, 2006

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Stephan P. Gribok		
Signature		Date	October 18, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OCT 20 2006  
PATENT & TRADEMARK OFFICE

PTO/SB/17 (12-04)

Approved through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 1500.00)

## Complete if Known

Application Number 10/534,560  
Filing Date May 11, 2005  
First Named Inventor Andreas FATH  
Examiner Name  
Art Unit  
Attorney Docket No. D4700-00394

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## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 04-1679 Deposit Account Name: Duane Morris LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION

### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

### 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims - 20 or HP = Extra Claims x Fee (\$) = Fee Paid (\$)  
HP = highest number of total claims paid for, if greater than 20  
Indep. Claims - 3 or HP = Extra Claims x Fee (\$) = Fee Paid (\$)  
HP = highest number of independent claims paid for, if greater than 3

### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets - 100 = Extra Sheets / 50 = Number of each additional 50 or fraction thereof x Fee (\$) = Fee Paid (\$)

### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other: Petition to Revive, #& CFR 1.137(b) (Unintentionally Abandoned)

Fees Paid (\$)

1500.00

## SUBMITTED BY

Signature Stephan P. Gribok Registration No. (Attorney/Agent) 29,643 Telephone 215-979-1283  
Name (Print/Type) Stephan P. Gribok Date Oct. 18, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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OCT - 4 2006

OCT 24 2006

DOCKETED  
12-2-06  
OFFICE OF PETITIONS

In re Application of  
FATH, Andreas  
Application No.: 10/534,560  
PCT No.: PCT/EP03/12697  
Int. Filing Date: 13 November 2003  
Priority Date: 14 November 2002  
Attorney Docket No.: D700-00394  
For: COATING METHOD

DECISION ON  
PETITIONS

UNDER 37 CFR 1.137(a) and 1.181

COPY

This decision is in response to applicant's petitions to revive the application for unavoidable abandonment and to withdraw the holding of abandonment, filed on 23 January 2006.

### BACKGROUND

On 13 November 2003, applicant filed international application PCT/EP03/12697, claiming a priority date of 14 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 May 2004. The thirty month period for paying the basic national fee in the United States expired on 14 May 2005.

On 11 May 2005, applicant submitted a transmittal letter for entry into the national phase in the United States, accompanied by an authorization to charge deposit account no. 04-1679.

On 02 November 2005, the Office mailed Notice of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to pay the basic national fee by thirty months.

On 23 January 2006, applicant submitted the instant petitions.

### DISCUSSION

Applicant argues that deposit account no. 04-1679 had sufficient funds to cover the basic national fee on 16 May 2005, when it was charged and the application should not be abandoned. As evidence, applicants have submitted a printout from their online deposit account statement.

The online deposit account statement is not sorted by time stamp on the transaction reflecting the order in which the account was charged, but by sale sequence number. Thus, customers viewing their account balance online can believe they have sufficient balance when they do not.

A review of the transactions in time stamp order for 16 May 2005, indicates that the deposit account balance dropped below the \$300 level required for the basic national fee on the afternoon of 13 May 2005 (accounting day 16 May 2005). As such, there was not enough money present to cover the charges.

Petition Under 37 CFR 1.137(a)

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. Applicant has now paid the basic national fee and the petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. The fee for late furnishing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 04-1679, as authorized.

Item (3) has not been satisfied. Failure to maintain a sufficient deposit account balance is not an unavoidable error that could not have been averted by the care that one takes with one's most important business.

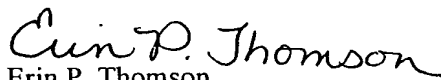
Applicants may wish to consider filing a petition under 37 CFR 1.137(b) for unintentional delay.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice. The petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a) and 1.181"

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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